

UNITED STATES DISTRICT COURT
DISTRICT COURT OF MARYLAND

DEBORAH K. CHASANOW
UNITED STATES DISTRICT JUDGE

6500 Cherrywood Lane
Greenbelt, MD 20770
(301) 344-0634

October 4, 2021

TO: Counsel

RE: Chamber of Commerce of the United States of America, et al.
v. Peter Franchot
Civil Action No. DKC 21-0410

Dear Counsel:

A concern has surfaced causing me to consider recusing myself from this case. Before doing so, however, we need to clarify matters so that I and other members of the bench can have sufficient information to make our decisions.

The Local Rule 103.3 disclosure of each plaintiff association does not include any other business entity with a "financial interest in the outcome of the litigation." The amended complaint, on the other hand, avers that each association has many members who would be liable to pay the charge imposed by the Act and thus harmed by it. The lists of all members of three of the associations are available in public sources, as referred in the amended complaint, but the more than 300,000 members of the Chamber of Commerce are not available in that form.

An advisory ethics opinion for judges concerns "Disqualification Based on Financial Interest in Member of a Trade Association." When the association appears as a party, a judge's financial interest in a member of the association might be a "proprietary interest" and, if that interest could be substantially affected by the outcome of the proceeding, disqualification might be advisable or required.

Without a more robust disclosure by the plaintiff associations, it is not possible for a judge fully to assess potential conflicts of interests. Accordingly, the three associations that have public lists of members will be required to disclose which of those members are alleged to be harmed by the Act. If any of them definitely will not be harmed, that information will be helpful as well. For the Chamber of Commerce,

the situation is murkier, given the enormous number of members and the likelihood that some of those members are themselves associations. Nevertheless, the Chamber of Commerce is directed to disclose any member it can identify that would be significantly affected by the outcome of this litigation. The updated disclosures are due no later than October 18, 2021.

Despite the informal nature of this letter, it constitutes an Order of the Court and the clerk is instructed to docket it as such.

Very truly yours,

/s/

DEBORAH K. CHASANOW
United States District Judge